

## **II. CONFIDENTIALITY**

### **1. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION**

This Responsible Public Agency ensures the confidentiality of all such information consistent with the specific procedures established in this section.

#### Definitions

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Educational records" means records maintained by a public agency responsible for the provision of general education or special education and related services that pertain to the special education and related services provided to a student with a disability. The term includes medical, psychological, and educational reports but does not include records of instructional, educational, ancillary, supervisory, and administrative personnel which are the sole possession of the maker and which are not accessible or revealed to any other personnel, except another person who performs on a temporary basis the duties of the individual who made the record. The term includes test instruments or protocols/score sheets and a record of the test results. Copies of test protocols will only be provided if the failure to do so would effectively prevent the parent or student from exercising the right to inspect and review the educational records. The term does not include certain records maintained by a law enforcement unit of a public agency or records maintained about a student with a disability as an employee of the public agency.

"Participating agency" means any agency or institution that collects, maintains, or uses personally identifiable information or from which information is obtained under Part B of IDEA.

#### Notice to Parents (34 CFR 300.561)

The Department of Elementary and Secondary Education requires this agency to give adequate notice to fully inform parents about this agency's responsibility to identify, locate, and evaluate children with disabilities who are residents of the agency. The notice will be provided in the native language of the parent. The notice shall include:

- A. the different languages the notice is available in;
- B. a description of the students on whom personally identifiable information is maintained, the types of information sought, the methods the LEA/public agency intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- C. a summary of the policies and procedures which the LEA/public agency must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and,
- D. a description of all of the rights of parents and children regarding this information, including the rights under Section 444 of the General Educational

Provisions Act and Part 99 of this Title (the Family Educational Rights and Privacy Act of 1974, and implementing regulations).

Before any major identification, location, or evaluation activity is initiated, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout this agency of the activity. This agency is required to conduct the following activities annually prior to November 1:

- A. publish one (1) public notice in local newspapers which describes the responsibility of the local board to conduct the census and the data elements to be obtained;
- B. air one (1) notice on local radio or television which describes the responsibilities of the local board to conduct the census and the data elements to be obtained; and,
- C. place posters/notices in all administrative offices of each building operated by the school that describe the responsibilities of the local board to conduct the census and the data elements to be obtained.

#### Access Rights (34 CFR 300.562)

This agency shall permit parents to inspect and review any educational records relating to their children that are collected, maintained, and used by the local school district/public agency regarding their student without unnecessary delay and before any meeting regarding an IEP or hearing relating to the identification, evaluation, placement or provision of FAPE and, in no case, more than 45 days after the request has been made. The right to review and inspect records includes:

- A. the right to a response from this agency to reasonable requests for explanations and interpretations of the records;
- B. the right to request that this agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and,
- C. the right to have a representative of the parent inspect and review the records.

This agency may presume that the parent has authority to inspect and review records relating to his/her child unless this agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

#### Record of Access (34 CFR 300.563)

This agency shall maintain a record of all parties obtaining access to education records collected, maintained or used under Part B of IDEA (except access by parents and authorized employees of the agency). The record will include:

- A. name(s) of party;
- B. the date access was given; and,
- C. purpose for which the party is authorized to use the records.

The record of access shall be maintained in each file of each pupil that contains confidential information. This agency is required to maintain a list of those employees who have access to educational records and maintain the list in a central location. Only employees of this agency who have a legitimate need to access education records shall be included on the list.

#### Records of More Than One Student (34 CFR 300.564)

If any education record includes information on more than one (1) child, this agency shall allow parents to inspect and review only the information relating to their child or to be informed of the specific information.

#### List of Types and Location of Information (34 CFR 300.565)

This agency shall provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

#### Fees (34 CFR 300.566)

This agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. This agency may not charge a fee to search for or to retrieve information under this part.

#### Amendment of Records at Parent Request and Hearing Rights (34 CFR 300.567)

A parent who believes that information in the educational records collected, maintained or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child may request the agency that maintains the information to amend the information.

This agency shall reach a decision regarding such a request within a reasonable period of time, but no more than 45 calendar days after receipt of the request. If this agency agrees to the requested amendment, the records in question shall be amended as agreed to. If this agency denies the request for an amendment, the agency shall:

- A. inform the parent of the denial and advise the parent of their right to a hearing; and,
- B. advise the parent/guardian that they have a right to request a hearing before an official of this agency, if they desire to further challenge the data contained within the student's file. This hearing shall be held in conformity with the requirements outlined in Section 99.22 of the Family Educational Rights and Privacy Act regulations.

If, as a result of the hearing, this agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, this agency shall amend the information accordingly and so inform the parent in writing.

If, as a result of the hearing, this agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, this agency shall inform the child's parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reason for disagreeing with the decisions of the agency. Any explanation placed in the records of the child must be maintained by this agency as a part of the child's records as long as the record or contested portion is maintained by this agency. If the record of the child or the contested portion is disclosed by this agency to any party, the explanation must also be disclosed to the party.

#### Consent (34 CFR 330.571)

This agency shall require written consent from the parent before it discloses information from the educational records of a child unless it is authorized to do so under Part 99 of the regulations implementing the Family Educational Rights and Privacy Act of 1974.

Written consent from the parent shall be obtained before any personally identifiable information is:

- A. disclosed to anyone other than officials of participating agencies collecting or using such data; or,
- B. used for any purpose other than meeting any requirement under IDEA.

In the event parent consent cannot be obtained, due process hearing procedures may be invoked by this agency.

If parent's failure to give consent would constitute neglect as defined in the Child Abuse and Neglect Laws of Missouri, Section 210.110 RSMo, a report should be made by this agency to the proper authorities.

#### Safeguards (34 CFR 300.572)

This agency shall protect the confidentiality of personally identifiable information of collection, storage, disclosure, and destruction stages. To assure protection, this agency shall:

- A. appoint one (1) official at each participating agency to be responsible for ensuring the confidentiality of any personally identifiable information;
- B. provide training or information to all persons collecting or using personally identifiable information in the state's policies and procedures governing such information; and,

- C. maintain, for public inspection, a current list of the names and positions of those employees within the public agency who may have access to personally identifiable data.

#### Destruction of Data (34 CFR 300.573)

This agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parent subject to the federal requirement that records be maintained for a minimum of three (3) years from the date the child no longer receives special education and related services. However, a permanent record containing the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be retained without time limitation.

#### Children's Rights (34 CFR 300.574)

All rights of privacy and educational records indicated herein with regard to parents shall pass to the child upon reaching age 18, except in the case of a child with a disability who is legally determined to be incompetent to make such decisions for himself/herself and for whom legal guardianship or conservatorship is required beyond the age of 18. In those instances, the legally established guardian or conservator shall maintain the rights to privacy as outlined in this section.

Parents of children who reach age 18 but who are still dependents, as defined in Section 152 of the Internal Revenue Service Code of 1954, maintain the right to inspect and review the child's educational record.

#### Enforcement (34 CFR 300.575)/Failure to Provide FAPE

The Department of Elementary and Secondary Education, through the process of monitoring, compliance plans, and/or assurance statements, will assure that this agency receiving and/or eligible for funds from federal sources will have all such policies and procedures, as described herein, in effect. In the event this agency fails to comply with the provisions of this part, the Department of Elementary and Secondary Education may initiate actions to withhold the payment of federal funds available to the this agency under IDEA and/or the payment of state funds available to support the special education services. This agency shall maintain rights provided under Regulation VII.1. contained in the State Plan.